

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID CHUOL, on behalf of himself)	CASE NO. 8:08-CV-00099-LSC-LG3
and other similarly situated,)	
)	
Plaintiff,)	
)	
vs.)	ANSWER OF DEFENDANT
)	[JURY TRIAL DEMANDED]
NEBRASKA BEEF, LTD.,)	
)	
Defendant.)	

COMES NOW the defendant, NEBRASKA BEEF, LTD., and for its answer to Plaintiff's Complaint, states and alleges as follows:

1. Defendant denies paragraph 1 of Plaintiff's Complaint.
2. Defendant admits that the Plaintiff was an employee of Defendant's processing facility located in Omaha, Nebraska. The remaining allegations of paragraph 2 of Plaintiff's Complaint are denied.
3. Defendant denies paragraph 3 of Plaintiff's Complaint.
4. Defendant admits that this court has jurisdiction over Plaintiff's federal claims brought pursuant to the Fair Labor Standards Act, 29 U.S.C. 216(b). The remaining allegations of paragraph 4 of Plaintiff's Complaint are denied.
5. Defendant admits paragraph 5 of Plaintiff's Complaint.
6. Defendant is without knowledge or information sufficient to form a belief as to the allegations of paragraph 6. Paragraph 6 is therefore denied.
7. Defendant admits paragraph 7 of Plaintiff's Complaint.
8. Defendant denies paragraph 8 of Plaintiff's Complaint.
9. Defendant denies paragraph 9 of Plaintiff's Complaint.
10. Defendant denies paragraph 10 of Plaintiff's Complaint.

11. Defendant denies paragraph 11 of Plaintiff's Complaint.

12. Defendant denies paragraph 12 of Plaintiff's Complaint.

13. Defendant denies paragraph 13 of Plaintiff's Complaint, including all subparts.

14. Defendant denies paragraph 14 of Plaintiff's Complaint.

15. Defendant denies paragraph 15 of Plaintiff's Complaint.

16. Defendant denies paragraph 16 of Plaintiff's Complaint.

17. Defendant denies paragraph 17 of Plaintiff's Complaint.

18. Defendant admits that it owns and operates a beef processing facility located in Omaha, Nebraska. The remaining allegations of paragraph 18 of Plaintiff's Complaint are denied.

19. Defendant denies paragraph 19 of Plaintiff's Complaint.

20. Defendant denies paragraph 20 of Plaintiff's Complaint.

21. Defendant admits that certain of its employees are required to wear uniforms and personal protective equipment for protective and sanitary reasons. The remaining allegations of paragraph 21 of Plaintiff's Complaint are denied.

22. Defendant denies paragraph 22 of Plaintiff's Complaint.

23. Defendant denies paragraph 23 of Plaintiff's Complaint.

24. In answer to paragraph 24 of Plaintiff's Complaint, Defendant admits that the Plaintiff was required to sanitize his person, and various pieces of protective equipment and gear, but denies that Plaintiff was not compensated for the time spent in these activities.

25. Defendant denies paragraph 25 of Plaintiff's Complaint.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26 of Plaintiff's Complaint. Paragraph 26 is therefore denied.

27. Defendant denies paragraph 27 of Plaintiff's Complaint.

28. Defendant denies paragraph 28 of Plaintiff's Complaint.

29. Defendant denies paragraph 29 of Plaintiff's Complaint.

30. Defendant denies paragraph 30 of Plaintiff's Complaint.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 of Plaintiff's Complaint. Paragraph 31 is therefore denied.

32. Defendant denies paragraph 32 of Plaintiff's Complaint.

33. Defendant denies paragraph 33 of Plaintiff's Complaint, including all subparts.

34. In answer to paragraph 34 of Plaintiff's Complaint, defendant incorporates and realleges paragraphs 1 through 33, above.

35. Defendant denies paragraph 35 of Plaintiff's Complaint.

36. Defendant admits that it is required to compensate its employees pursuant to the Nebraska Wage and Hour Act, Neb. Rev. Stat. §§ 48-1201, *et seq.* The remaining allegations of paragraph 36 of Plaintiff's Complaint are denied.

37. Defendant denies paragraph 37 of Plaintiff's Complaint.

38. Defendant denies paragraph 38 of Plaintiff's Complaint.

39. Defendant denies paragraph 39 of Plaintiff's Complaint.

40. In answer to paragraph 40 of Plaintiff's Complaint, defendant incorporates and realleges paragraphs 1 through 39, above.

41. Defendant denies paragraph 41 of Plaintiff's Complaint.

42. Defendant denies paragraph 42 of Plaintiff's Complaint.

43. Defendant denies paragraph 43 of Plaintiff's Complaint.

44. Defendant denies paragraph 44 of Plaintiff's Complaint.

- 45. Defendant admits paragraph 45 of Plaintiff's Complaint.
- 46. Defendant denies paragraph 46 of Plaintiff's Complaint.
- 47. Defendant denies paragraph 47 of Plaintiff's Complaint.
- 48. Defendant admits paragraph 48 of Plaintiff's Complaint.
- 49. Defendant denies paragraph 49 of Plaintiff's Complaint.
- 50. Defendant denies paragraph 50 of Plaintiff's Complaint.
- 51. Defendant prays for a trial by jury.

AFFIRMATIVE DEFENSES

52. The act or omission complained of by the Plaintiff was in good faith in conformity with and reliance on written administrative regulations, orders, rulings, approvals, or interpretations of the Department of Labor.

53. Plaintiff's causes of action, and those of the purported class, are barred by the statute of limitations.

NEBRASKA BEEF, LTD., Defendant,

By: /s/ William R. Settles

William M. Lamson, Jr., #12374

William R. Settles, #19879

Brian J. Brislen, #22226

LAMSON, DUGAN and MURRAY, LLP

10306 Regency Parkway Drive

Omaha, NE 68114-3743

Telephone: (402) 397-7300

Telefax: (402) 397-7824

wml@ldmlaw.com

wrs@ldmlaw.com

bjb@ldmlaw.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that on this 20th day of May 2008, the foregoing answer was electronically filed with the clerk of the court using the CM/ECF system which sent notification of such filing to the following:

Christopher P. Welsh
James R. Welsh
2027 Dodge Street, Suite 400
Omaha, NE 68102

Philip A. Downey

Shanon J. Carson

Carolyn H. Cottrell

Todd M. Schneider

W. Hank Willson, IV

/s/ William R. Settles